

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DOUGLAS HANDSHOE

v.

CIVIL ACTION NO. 1:15cv382-HSO-JCG

VAUGHN PERRET, et al.

ASHOKA’S MOTION TO DISMISS THIRD AMENDED COMPLAINT

Defendant Ashoka (“Ashoka”) respectfully requests that the Court dismiss the Third Amended Complaint filed by Plaintiff Douglas Handshoe pursuant to Federal Rule of Civil Procedure 12(b)(6).

As explained in the accompanying memorandum, which is incorporated herein by reference, the Third Amended Complaint should be dismissed as to Ashoka because it fails to state a claim against Ashoka under Section 512(f) of the Copyright Act. First, Plaintiff fails to allege that a takedown notice filed by Ashoka in 2011 under the Digital Millennium Copyright Act contained any misrepresentations in violation of 17 U.S.C. § 512(f). Second, any § 512(f) claim with respect to the 2011 takedown notice is time-barred by the Copyright Act’s three-year statute of limitations. Finally, Plaintiff fails to allege that Ashoka submitted any additional takedown notices or made any other representations or misrepresentations in violation of § 512. As such, the Third Amended Complaint fails to state a claim against Ashoka under any alleged cause of action. As a result, the Third Amended Complaint should be dismissed with prejudice as to Ashoka.

/s/ Douglas J. Gunn
Douglas J. Gunn (MS Bar No. 5068)
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DATED: February 9, 2017

CERTIFICATE OF SERVICE

I, the undersigned counsel, do hereby certify that I have this day electronically filed the foregoing with the Clerk of Court using the ECF system, which sent notification of such filing to all counsel of record who have registered with the ECF system.

This is the 9th day of February, 2017.

/s/ Douglas J. Gunn